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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,368	01/17/2002	Mihaela Van Der Schaar	US 020027	3938

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EXAMINER

SHANG, ANNAN Q

ART UNIT PAPER NUMBER

2623

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/056,368	Applicant(s) VAN DER SCHAAR, MIHAELA	
	Examiner Annan Q. Shang	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7 and 9-20 are rejected under 35 U.S.C. 102(e) as being anticipated by **Fendick et al (6,252,857)**.

As to claim 1, note the **Fendick** reference figures 3-5, discloses method and apparatus for provisioned and dynamic quality of service in a communications network and further disclose a method for transmitting video data (col.1, lines 15-47), comprising the steps of:

Assigning a recipient to one of a plurality of multicast groups (MGs), each of the MGs being based on one of the group comprising: an identified average or minimum available bandwidth of a link over which a data stream of a given video segment is to be multicasted; and an identified capability of the MG to which the data stream is to be multicasted (fig.3-5, col.4, lines 6-39, line 47-col.5, line 38 and col.6, lines 26-col.7, line 59), note that the NHC builds up a delivery tree and multicasts to groups of receivers

within that tree and provides QoS, which includes bandwidth, capabilities the tree and receiver capabilities;

Selecting (Sender or Host NHC 301) a corresponding one of the group comprising: one of a plurality of predetermined ranges of bandwidths, so that the selected range contains the identified average or minimum available bandwidth of the MG of the receipt and one of a plurality of different data stream types so that the identified capability of the MG of the recipient is used to process data of the selected data type (fig.3-5, col.4, lines 6-39, line 47-col.5, line 38 and col.6, lines 26-col.7, line 59);

Coding the data stream (NHC-301) in a manner, which takes advantage of the range of type of data stream that has been or is to be selected and multicasting the coded data stream over the link to the recipient (col.4, lines 30-63 and col.7, lines 45-65).

As to claim 2, Fendick further discloses where coding the data stream in a manner which takes advantage of the type of data stream that has been or is to be selected identifies a capability of a recipient host to which the data stream is to be transmitted and includes coding a plurality of data streams, each corresponding to a respectively different one of the plurality of predetermined ranges of bandwidths (col.4, lines 30-63 and col.7, lines 45-65).

As to claims 3-4, Fendick further discloses where a scalable coding technique is used and two of the plurality of data streams have common base layer and respectively different layers where a first one of the two data streams has an enhancement layer

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with frequency weighting, selective enhancement or any other quality improvement tool targeted towards particular bit-rate range, and a second one of the two data streams has an enhancement layer without frequency weighting (col.4, lines 30-63 and col.7, lines 45-65).

As to claim 5, Fendick further discloses a method where the steps are performed in real time or near real time or near time in response to a request for the video segment (col.4, lines 30-63 and col.7, lines 45-65).

As to claim 6, Fendick further discloses where the steps are performed in first and second iterations for the same video segment a respective recipient host capability is identified during each of the first and second iterations, a respectively different coded data stream is provided for the same video segment during each of the first and second iterations (col.4, lines 6-39, line 47-col.5, line 38 and col.6, lines 26-col.7, line 59).

As to claim 7, Fendick further discloses receiving from the recipient host an identification of the recipient host capability when the link is established (col.4, lines 30-63 and col.7, lines 45-65).

As to claim 9, Fendick further discloses where the steps includes determining an average available bandwidth of a link over which one of the data streams is to be transmitted includes selecting one of the plurality of ranges having a greatest data rate among all of the plurality of ranges that can be accommodated by a data rate of the link over which the video data are to be transmitted and includes coding a plurality of data streams using a fine granular scalability technique, each of the plurality of data streams corresponding to a respectively different range of data rates at which the data streams

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are to be transmitted (col.4, lines 6-39, line 47-col.5, line 38 and col.6, lines 26-col.7, line 59).

As to claim 10, the claimed "A system for transmitting video data..." is composed of the same structural elements that were discussed with respect to the rejection of claim 1.

Claim 11 is met as previously discussed with respect to claim 2.

As to claim 12, the claimed "A machine readable medium that contains computer program code..." is composed of the same structural elements that were discussed with respect to the rejection of claim 1.

Claim 13 is met as previously discussed with respect to claim 2.

Claim 14 is met as previously discussed with respect to claim 9.

Claim 15 is met as previously discussed with respect to claim 5.

Claim 16 is met as previously discussed with respect to claim 6.

As to claim 17, the claimed "A signal encoded with data representing computer program code..." is composed of the same structural elements that were discussed with respect to the rejection of claim 1.

Claim 18 is met as previously discussed with respect to claim 2.

Claim 19 is met as previously discussed with respect to claim 9.

Claim 20 is met as previously discussed with respect to claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fendick et al (6,252,857)** as applied to claim 1 above, and further in view of **Schuster et al (6,151,636)**

As to claims 8 and 21, Fendick system incorporates the maximum QoS parameters to multicast to groups of receivers, but fails to explicitly teach the ability to perform motion compensation.

However, note the **Schuster** reference figures 1 and 4, discloses data and media communication through a lossy channel using signal conversion and includes the ability to perform motion compensation (col.5, line 66-col.6, line 9, col.10, line 56-col.11, line 23 and col.12, lines 22-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Schuster into the system of Fendick compensate for data losses or errors, as a result of the transmitting the image, by reconstructing the transmitted image to produced the original image.

Response to Arguments

6. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection. The amendment to all the independent claims necessitated the new ground(s) of rejection discussed above. **This Office Action is made Final.**

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ammar et al (6,215,766) disclose hierarchical rate control of receivers in a communication system transmitting layered video multicast data with retransmission.

Gupta et al (5,555,244) disclose scalable multimedia network.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**.



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